

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

LESLIE ANN WETZEL,

Plaintiff

vs.

CAROLYN W. COLVIN, Acting
Comissioner of Social Security,

Defendant

No. 3:15-CV-1851

(Judge Nealon)

(Magistrate Judge Carlson)

**FILED
SCRANTON**

SEP 12 2016

MEMORANDUM

Per Amo
DEPUTY CLERK

BACKGROUND

On September 23, 2015, Plaintiff, Leslie Ann Wetzel, filed this instant appeal¹ under 42 U.S.C. § 405(g) for review of the decision of the Commissioner of the Social Security Administration (“SSA”) denying her applications for disability insurance benefits (“DIB”) and supplemental security income (“SSI”)² under Titles II and XVI of the Social Security Act, 42 U.S.C. § 1461, et seq and U.S.C. § 1381 et seq, respectively. (Doc. 1).

On November 27, 2015, Defendant filed an Answer and Transcript from the

1. Under the Local Rules of Court “[a] civil action brought to review a decision of the Social Security Administration denying a claim for social security disability benefits” is “adjudicated as an appeal.” M.D. Pa. Local Rule 83.40.1.

2. Supplemental security income is a needs-based program, and eligibility is not limited based on an applicant’s date last insured.

Social Security Administration (“SSA”) proceedings. (Docs. 10 and 11). Plaintiff filed a brief in support of her complaint on February 22, 2016. (Doc. 16).

Defendant filed a brief in opposition on March 25, 2016. (Doc. 17). Plaintiff filed a reply brief on April 12, 2016. (Doc. 18). On June 10, 2016, Defendant filed a motion to remand and a brief in support of this motion. (Docs. 24 and 25). On June 28, 2016, Plaintiff filed a brief in opposition to the motion to remand. (Doc. 28). On June 16, 2016, Magistrate Judge Karoline Mehalchick, to whom this case was referred, conducted an oral argument. On August 15, 2016, Magistrate Judge Mehalchick issued a Report and Recommendation (“R&R”), recommending that Plaintiff’s appeal from the Commissioner’s decision be granted, that the Commissioner’s decision be reversed, and that Plaintiff be awarded benefits under Titles II and XVI of the Social Security Act for the period of January 2, 1999 to March 27, 2015. (Doc. 29). On August 30, 2016, Defendant filed a letter waiving the opportunity to file objections to the R&R. (Doc. 30). The matter is ripe for disposition, and, for the reasons set forth below, the R&R will be adopted, Plaintiff’s appeal will be granted, the decision of the Commissioner denying Plaintiff’s application for DIB and SSI will be reversed, and Plaintiff will be granted benefits for the period from January 2, 1999 to March 27, 2015.

STANDARD OF REVIEW

When neither party objects to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report, under de novo or any other standard. 28 U.S.C. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 152 (1985). Nevertheless, the Third Circuit Court of Appeals has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987), writ denied 484 U.S. 837 (1987). In the absence of objections, review may properly be limited to ascertaining whether there is clear error that not only affects the rights of the plaintiff, but also seriously affects the integrity, fairness, or public reputation of judicial proceedings. Cruz v. Chater, 990 F. Supp. 375, 377 (M.D. Pa. 1998) (Vanaskie, J.); Garcia v. I.N.S., 733 F. Supp. 1554, 1555 (M.D. Pa. 1990) (Kosik, J.) (stating "the district court need only review the record for plain error or manifest injustice"). The district court may accept, reject, or modify, in whole or in part, the findings and recommendations contained in the report. 28 U.S.C. § 636(b)(1)(C); M.D. Pa. Local Rule 72.3.

DISCUSSION


Upon review of the present appeal, it is determined that the Magistrate Judge did not err in concluding that the decision of the administrative law judge,

("ALJ"), that Plaintiff is not disabled is not supported by substantial evidence. IN the R&R, Magistrate Judge Mehalchick accurately sets forth the procedural history, background, transcript, standard of review, and sequential evaluation process for Plaintiff's claim, and the same is adopted herein. (Doc. 29, pp. 1-20). Also, the Magistrate Judge adequately analyzed the findings of the ALJ and the evidence of record, which is also herein adopted. (Id.). A review of the entire record reveals no clear error in Magistrate Judge Mehalchick's Report and Recommendation.

In the absence of objections, and having reviewed the Report and Recommendation for clear error and finding none, Magistrate Judge Mehalchick's Report and Recommendation will be adopted. As such, Plaintiff's appeal will be granted, the decision of the Commissioner denying Plaintiff's applications for DIB and SSI will be reversed, and Plaintiff will be granted benefits for the period from January 2, 1999 to March 27, 2015.

A separate Order will be issued.

Date: September 12, 2016


United States District Judge